

1905-050 Chancery Causes: Mary A. Smith vs. C. C. Smith
Lee Co

CA-Contract Dispute

T-Property

To the Hon. H. A. W. Skeen, Judge of the Circuit Court
for Lee County, Virginia:

Humbly complaining your oratrix Mary A. Smith, would
show unto the court, that on the 17th day of January, 1900, she execu-
ted a deed to her son C. C. Smith, conveying to him all her real and
personal estate on condition that the said C. C. Smith support and
maintain and care for her during the remainder of her natural life;
which said deed reads as follows, to-wit:

"This deed made this the 17th day of January, 1900 by and
between Mary A. Smith wife of David Smith of the first part, and
Charles C. Smith her son of the second, Witnesseth; That for and in
consideration of \$1.00, and for the further consideration that the
said party of the second part shall take care of and support the
said first party, who is now about seventy years old during her
natural life. Said first party does hereby grant and convey unto
the said second party her real and personal property consisting of
the following property, to-wit: A certain tract or parcel of land
situated in the Brush Country and known as the David Smith place in-
cluding the Bolen place, and containing 125 acres, more or less,
and further bounded and described as follows, to-wit; bounded on
the north by the lands of M. R. and W. T. Gilley, on the east by the
land of Marrison Smith Sr., and M. R. Gilley, and on the south by
the lands of Lilburn W. Myers, and on the west by the lands of Elbert
Smith; and a certain other tract of land situated on the east side
of the North Fork of Powell's River, and known as a part of the
Johnnie Smith place, and containing twenty-eight acres, more or less,
and described as follows to-wit; bounded by the Sallie Smith land
on the east and on the south, thence, northwardly with the river to
the beginning; also all personal property, including my horses, cattle,

hogs &c., To have and to hold the aforesaid real and personal property as his own together with all the appurtenances, and everything belonging thereto during my natural life. The said second party agreeing to keep the taxes paid on all of said property.

Given under my hand and seal this the day and date first above written.

(signed) Mary A. Smith,
her
mark,

ATTESTE: W. K. Hopkins,
Sue Hopkins. "

Your oratrix will now show your honor that the said C. C. Smith her son, took possession of the said lands, and has used and cultivated it as his own ever since, and has taken the personal property mentioned in said deed, and disposed of the same for his own use, yet, notwithstanding, that he has possessed himself under the deed of all the property of your oratrix and appropriated it to his own use, he has actually failed to care for and to support your oratrix, but has left her upon the tender mercies of her neighbors and her friends. She will now show unto your honor as she is an old woman some 75 or 76 years of age, and very frail and feeble of body, and entirely unable to support herself, and has not other means of support out side of the property conveyed to the said C. C. Smith in said deed, and unless she is granted relief by a court of equity, she must necessarily end her declining years in the poor-house. The said C. C. Smith still has the real estate mentioned in said deed, receiving the rents and profits therefrom, appropriating them to his own use, and absolutely refusing to allow your oratrix to have any part or share therein, or otherwise supporting and maintaining her. Now your oratrix is advised and here alleges that under his total failure to comply with the terms and provisions of said

deed that she has the right to come into a court of equity and asks that the said deed be rescinded, annulled and declared void, and the possession of the said land be restored to her, or that the said C. C. Smith be compelled to contribute annually such a sum as may be necessary for her support and maintenance according to her age, and condition of life, which she alleges would be at least \$150.00 per annum.

The prayer, therefore, of your oratrix is, that the said C. C. Smith be made a party defendants to this suit, and that he be required to answer the same, but not under oath, that being expressly waived, and proper process issued, and that upon a final hearing of this cause the deed herein set forth be declared null and void, and that a writ of possession be granted your oratrix for said land, or if mistaken in this that the said C. C. Smith be compelled to contribute annually such sum as may be necessary for the support of your oratrix during the remainder of her natural life, that said annul sum be declared to be a first lien or charge upon said land, and that he will be compelled to pay the same promptly under the decrees and orders of this honorable court. And that all such other, further and general relief be granted your oratrix as the justice of her cause may demand, and to your honor seen meet. And she will ever pray &c.

On - & Noel p.g.

Mary A. Smith

vs. { Bill in Chy.

C. C. Smith

1905 1st May Rules

Bill filed Sp. ex. & D.N.

" 2nd May Rules
D.N. confirmed and
cause set for hearing.

Costs:

Clerk	\$3.20
Shff.	.50
Atty	15.00
Total	<u>1.50</u>
	\$20.20

Mary A. Smith,

Plaintiff

vs.

In Chancery

C. C. Smith

Defendant.

This cause came on to be heard upon the bill of the plaintiff, and the contract between the plaintiff and defendant copied therein, and process duly executed on the defendant and the cause regularly matured at rules and set for hearing by the plaintiff, and was argued by counsel. And the ~~plaintiff~~^{defendant} failing to appear and ~~plea~~^{plea} demur or answer, the bill is taken for confessed against them. On consideration thereof, it is adjudged, ordered and decreed that the ~~contract~~^{deed} set forthin said bill between the parties be and the same is hereby set aside and declared null and void. And ~~the~~^{that} possession of the land and personal property in said ~~contract~~^{deed} mentioned be restored to the plaintiff, and ~~the~~^{that} plaintiff recover against the defendant her cost in this behalf expended, And on motion of the plaintiff a writ of possession be awarded the plaintiff to cause her to have the possession of the said real and personal property should she request the same of the clerk of this court. And nothing further remaining to be done in this cause, the same is ordered to be stricken from the docket.

Mary A Smith
vs Deere Trial
C. C. Smith

Entered in C. C. B.
No. 8 - p. 46 -

Enter this decree.
H. W. Stone
May 22nd 1905.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

C. C. Smith

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *1st* Monday in *May*, 190*5*, to answer a bill in chancery exhibited against *him*

in our said Court by Mary A. Smith.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *28th* day of *April*, 190*5*, and *29th* year of the Commonwealth.

A Copy, Teste:

_____, Clerk.

H. C. T. Ewing, Clerk.
By M. E. Hawley, D.C.

Mary A. Smith

VS

}

SUBPCENA
IN
CHANCERY.

C. C. Smith

Ordn. No. 6 p. 9

To

1st May

Rules.

Lee Circuit

Court.

1905.

executed by delivering
above copy of the
within to C. C. Smith
this April 29, 1905

J. D. Hughes D D
for J. M. Ball

L. L. C